

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 19037
[Redacted],)	
)	DECISION
Petitioner.)	
_____)	

This case arises from a timely protest of a State Tax Commission staff decision adjusting the property tax reduction benefit for 2005. This matter was submitted for a decision based on the documents in the file. The State Tax Commission has reviewed the file and makes its decision based on the contents of that file.

All property within the jurisdiction of this state is subject to property tax. A property tax reduction benefit is available to certain qualifying individuals. The benefit is in the form of payment of the applicant's property tax on the dwelling he/she owns and occupies. The payment is funded by state sales tax. The amount of property tax reduction depends on income--the greater the income, the smaller the benefit.

[Redacted] (petitioner) filed an application for a property tax reduction benefit with [Redacted] County on March 22, 2005. In her application, the petitioner listed federal adjusted gross income as her husband's and her sole income from which capital gains and medical expenses were deducted. However, she did not list the funds she received from the Social Security Administration as a 100 percent disabled veteran or the nontaxable portion of annuity or pension funds shown in the petitioner's 2004 federal income tax return.

The staff sent the petitioner a notice advising her of the intent to deny her benefit because the income information appeared to be incomplete. In addition, the petitioner was asked to provide substantiation in support of not including the annuity/pension funds in income. The petitioner

protested the intended action, and her file was transferred to the Legal/Tax Policy Division for administrative review.

Income for property tax reduction benefit purposes is defined in Idaho Code § 63-701(5) as follows:

(5) **"Income" means the sum of federal adjusted gross income** as defined in the Internal Revenue Code, as defined in section 63-3004, Idaho Code, and to the extent not already included in federal adjusted gross income:

(a) Alimony;

(b) Support money;

(c) Nontaxable strike benefits;

(d) The nontaxable amount of any individual retirement account, **pension or annuity**, (including railroad retirement benefits, **all payments received under the federal social security act** except the social security death benefit as specified in this subsection, state unemployment insurance laws, and veterans disability pensions and compensation, **excluding rollovers as provided in section 402 or 403 of the Internal Revenue Code**);

(e) Nontaxable interest received from the federal government or any of its instrumentalities or a state government or any of its instrumentalities;

(f) Worker's compensation; and

(g) The gross amount of loss of earnings insurance.

It does not include capital gains, gifts from nongovernmental sources or inheritances. To the extent not reimbursed, the cost of medical care as defined in section 213(d) of the Internal Revenue Code, incurred or paid by the claimant and/or, if married, the claimant's spouse, may be deducted from income. To the extent not reimbursed, personal funeral expenses, including prepaid funeral expenses and premiums on funeral insurance, of the claimant and claimant's spouse only, may be deducted from income up to an annual maximum of five thousand dollars (\$5,000) per claim. **"Income" does not include veterans disability pensions received by a person described in subsection (1)(e) who is a claimant or a claimant's spouse if the disability pension is received pursuant to a service-connected disability of a degree of forty percent (40%) or more.** (Emphasis added.)

For the purpose of the property tax reduction benefit, the calculation of income starts with federal adjusted gross income and, thereafter, makes certain additions and deductions.

Examination of the petitioner's federal tax return and other records available to the Tax

Commission supports the amount shown as federal adjusted gross income in the petitioner's application. She correctly did not include her veteran's disability income because she is 100 percent disabled. She also did not show the \$12,000 she received from the Social Security Administration. There is no provision for exempting that portion of the petitioner's income.

The petitioner provided a copy of a statement from her financial institution confirming the roll over of the pension funds shown in the petitioner's 2004 income tax return. Therefore, the only change to the petitioner's 2005 property tax reduction benefit application that was submitted by the petitioner is the inclusion of the Social Security.

The petitioner's federal adjusted gross income of \$10,066 plus the \$12,000 Social Security benefits less \$3,344 of capital gains and \$443 of medical expenses resulted in a net income of \$18,279. The petitioner qualifies to receive a benefit of \$420 for 2005.

The State Tax Commission is aware there is some potential this decision could cause a hardship to the applicant for property tax reduction in certain circumstances. The proper jurisdiction to handle such hardship situations falls with the County Commissioners pursuant to Idaho Code § 63-711.

WHEREFORE, the Intent to Deny Benefits letter dated September 9, 2005, is hereby MODIFIED and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

An explanation of the petitioner's right to appeal this decision is enclosed with this decision.

DATED this _____ day of _____, 2005.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE BY MAIL

I hereby certify that I have on this _____ day of _____, 2005, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Receipt No.